

BOARD OF APPEALS CASE NO. 4800

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BEFORE THE

APPLICANT: Charles R. Garrett, Jr.

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ZONING HEARING EXAMINER

**REQUEST: Variance to disturb the
Natural Resource District buffer to
construct a deck; 1011 Longstream
Court, Bel Air**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 3/18/98 & 3/25/98

HEARING DATE: May 13, 1998

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Record: 3/20/98 & 3/27/98

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Charles R. Garrett, Jr., appeared before the Hearing Examiner requesting a variance to Sections 267-41(D)(5)(e) and 267-41(D)(6) of the Harford County Code, to disturb the required 75 foot Natural Resource District buffer.

The subject parcel is located at 1011 Longstream Court in the Third Election District. The parcel is identified as Parcel No. 628 in Grid 3-B, on Tax Map 41. The parcel contains .663 acres, all of which is zoned R1/COS.

Mr. Charles Garrett, Jr., appeared and testified the subject parcel is improved by a single-family dwelling. The Applicant said that he would like to construct a deck and that the post for the deck will encroach 2 feet into the Natural Resource District buffer and that the overhang of the deck will encroach 4 feet over the buffer. The Applicant said that the proposal will not involve removal of trees and that he did not feel that approval of the variance would adversely impact the Natural Resource District buffer. The Applicant said that he would comply with the conditions set forth in the Staff Report if the variance is approved. The Applicant said the subject parcel is unique because the Natural Resource District buffer crosses the middle of the lot and also that the Lot is exceptionally narrow in that the parcel is approximately 75 feet in width and 383 feet deep.

No protestants appeared in opposition to the Applicant's request.

CONCLUSION:

The Applicant is requesting a variance to Section 267-41(D)(5)(e), which provides:

“Nontidal wetlands shall not be disturbed by development. A buffer of at least seventy-five (75) feet shall be maintained in areas adjacent to wetlands.”

Section 267-41(D)(6) provides:

"Variances. The Board may grant a variance to Subsection (D)(3), (4) or (5) of the Natural Resource District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resource District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service, and the Department of Natural Resources."

The uncontradicted testimony of the Applicant was that the posts for the deck would encroach 2 feet into the Natural Resource District buffer and that the overhang of the deck would encroach 4 feet in the Natural Resource District buffer. The Staff Report of the Department of Planning and Zoning recommends conditional approval and Attachments 11 and 12 from the Maryland Department of the Environment and the Harford County Soil Conservation District indicate that they had no comments on the Applicant's request.

It is the finding of the Hearing Examiner that the Applicant's request will not adversely affect the Natural Resource District buffer. Therefore, it is the recommendation of the Hearing Examiner that the requested variance be approved, subject to the following conditions:

1. The Applicant submit a new permit application to reflect the new dimensions of the deck and obtain all necessary approvals and inspections.
2. The Applicant shall submit a landscaping plan to the Department of Planning and Zoning for review and approval.

Date MAY 28, 1998

**L. A. Hinderhofer
Zoning Hearing Examiner**